REMARKS/ARGUMENTS

All Claims 1-33 stand rejected over the prior art as stated in an office action dated June 6, 2003. On September 29, 2003, the undersigned and the inventor discussed the Examiner's application of U.S. Patent 6,408,298 (Van et al) in the rejection of Claims 1, 4-5, 13-18, 30, and 31. In particular, Claim 1 had been rejected as being obvious under 35 U.S.C. § 103 over the teachings of a single reference, namely Van's teachings in column 1, lines 61-67 to column 2, lines 1-6, column 4, lines 16-45, and column 11, lines 3-6.

In the telephone conference, the undersigned pointed out that Van appeared to teach that both resources (a file and a directory) are simply copied within the same process because there is no distinction being made between a file and a directory other than to say that files in a directory are simply copied one file at a time until all files are copied. Applicant then pointed out that the very first limitation in Claim 1, namely "creating a process if an item to be copied is a directory" was not disclosed by Van.

The Examiner countered by simply repeating the language from the office action. Specifically, the Office Action stated that Van discloses electrical computers and data processing systems, that the definition of a process is a sequence of states of an executing program, and that a process consists of program code, private data, and the state of the processor... The Office Action also stated that "copying directory is a program code to execute the process to create process to copy a directory" (see top of page 3 of the office action). The Office Action further stated that "it would have been obvious a person having ordinary skill in the art the time invention was made to include the creating process in the system of Van to the copying command of program code to execute the creating the process. Because the copy command program executes the computer processor for copy."

The undersigned responded saying that while Van may indicate that a directory can be copied, that such copying appears to be done inline within the same process that also copies a file. Applicant stated that there was no suggestion to create a new process which is different from and which can execute independently of a current process. The undersigned explained to the Examiner the concept of spawning a process (which is well known technique), and that when a new process is spawned, the new process can execute

simultaneously or contemporaneously with the current process. Use of multiple processes allows parallel processing of the type not disclosed or suggested by Van. The undersigned then asked if the Examiner could point to a motivation or suggestion for modifying Van's method to add an act of spawning a process.

The Examiner responded by saying that the claim was too broad because it had only two limitations. The undersigned responded that the number of limitations should not be a ground for rejection, especially when Van does not disclose the limitation of spawning. The Examiner said that Claim 1 was too broad. The Applicant then asked if amending Claim 1 to use the word "spawning" would overcome the reference by Van. The Examiner said he will consider the amendment when submitted in writing, and that it would require a review of the Van reference again and also require a new search. The undersigned asked if the current version of Claim 1 would be allowable, and the Examiner said no because currently it was too broad.

Accordingly, Applicant now amends Claim 1 to explicitly use the word "spawn" and to explicitly state that a new process that is spawned executes simultaneously or contemporaneously with a current process that performs the spawning. This language has now been added to Claim 1 in view of the Examiner's misunderstanding of the term "creating a process" that was originally recited in Claim 1. Support for "spawning" a process as now recited in Claim 1 is found throughout the originally-filed specification, including, for example, at page 5, line 11.

Applicant submits that there is no change whatsoever in the scope of Claim 1 by the above-described amendment, and therefore no scope is being lost (either literally or under the doctrine of equivalents) in making this amendment. If for any reason the Examiner thinks that the amended Claim 1 is narrower than originally-filed Claim 1, the Examiner is respectfully requested to state their position on the record in the next Office Action, and in particular give an example that is covered by original Claim 1 but not by amended Claim 1. In the absence of such a statement and example from the Examiner, amended Claim 1 is to be construed as being of the same scope as originally-filed Claim 1.

Applicant submits that Claim 1 is patentable at least because Van fails to disclose or suggest that if an item to be copied is a directory then a new process is to be spawned and if the item is a file then the file is to be copied within the current process, with the

SILICON VALLEY
PATENT GROUP LLP

2350 Mission College Blvd
Suite 360
Santa Clara, CA 95054
(408) 982-8200
FAX (408) 982-8210

understanding that a new process executes simultaneously or contemporaneously with a current process that performs the spawning. If the Examiner continues to reject Claim 1 over the teaching of Van, Applicant respectfully traverses the Examiner's unsupported statements at the bottom of page 2 and top of page 3 of the Office Action.

In particular, the Examiner is hereby requested to provide a reference wherein it is stated that "The copying directory is a program code to execute the process to create process to copy a directory" (emphasis added). Applicant also traverses the Examiner's unsupported statement when "the copy command program executes the computer processor for copy" this will automatically cause "the creating process in the system of Van to the copying command of program code to execute the creating the process" (emphasis added). Despite emphasis, it is the Examiner's language and the factual basis thereof that is being traversed. In this context, Applicant respectfully draws the Examiner's attention to the following evidentiary requirement to be met: "If Applicant Challenges a Factual Assertion as Not Properly Officially Noticed or not Properly Based Upon Common Knowledge, the Examiner Must Support the Finding With Adequate Evidence." See MPEP 2144.03. If the Examiner is unable to find an appropriate reference, then Claim 1 must be allowed to proceed to issuance. Claims 2-19 depend from Claim 1 and are therefore also patentable for at least the same reasons as Claim 1.

In addition to the discussion of Claim 1, the undersigned also discussed on September 29, the Examiner's rejection of dependent Claims 4 and 5 in the above-identified Office Action, in the bottom half of page 3. The undersigned pointed out that in this rejection, the Examiner's factual basis for rejecting dependent Claims 4 and 5 was identical to the basis for rejection of independent Claim 1. The undersigned stated that he had carefully reviewed the text cited by the Examiner, namely the language in Van's patent at column 1, lines 61-67, column 2, lines 1-6, column 4, lines 16-45 and column 11, lines 3-6, and the undersigned found nothing whatsoever to support the Examiner's statement. In particular, the word "limit" is nowhere used by Van in his entire patent. The Examiner was unable to explain the rejection, and merely stated that he would consider the argument when submitted in writing. Applicant respectfully submits that even if Claim 1 is found by the Examiner to be not patentable, Claims 4 and 5 have an independent ground for patentability because use of a "limit" is nowhere disclosed or suggested by Van.

SILICON VALLEY
PATENT GROUP LLP

2350 Mission College Blvd
Suite 360
Santa Clara, CA 95054
(408) 982-8200
FAX (408) 982-8210

The undersigned also discussed on September 29, the Examiner's rejection of Claim 14 which requires sending an email message if a resource at a destination is full. The undersigned pointed out that there was no support whatsoever for the Examiner's statement in the middle of page 4 of the Office Action that Van's col. 4, lines 15-67 to col. 5, lines 1-10 that email messages were being created and sent. On the contrary, Van merely disclosed in column 4, line 34 that an email message was simply one form of a file that was to be copied. There was no suggestion whatsoever by Van that the email message was to be sent in response to an event, and certainly nothing suggesting the sending of an email when the destination is full. The Examiner asked that this argument be submitted in writing. In view of the above, Applicant respectfully submits that even if Claim 1 is found by the Examiner to be not patentable, Claim 14 has an independent ground for patentability because sending of an email in response to destination being full is nowhere disclosed or suggested by Van.

Claims 20-21 were found to be obvious over the teachings of U.S. Patent 5,717,951 (granted to Yabumoto), in particular at column 9, lines 64-67 to column 10, lines 1-14 and also column 24, lines 4-20. In making the rejection (at the top of page 6 of the Office Action), the Examiner appears to have completely ignored the act of "increasing" as recited in Claim 20. Specifically, Yabumoto merely states that the file size is determined, without disclosing or suggesting that Yabumoto's file size should be increased to a maximum size from a default size. In contrast, Claim 20 now explicitly requires increasing a limit on a resource, and further requires using the increased limit during copying.

If the Examiner continues to reject Claim 20 as being obvious over the teaching of the single reference by Yabumoto, Applicant respectfully traverses the Examiner's unsupported statements at the top of page 6 of the Office Action. In particular, the Examiner is hereby requested to provide a reference wherein it is stated that "the maximum allowable data block (resource) size is getting from default" (in the Examiner's words). The Examiner must also show that any such "getting" causes an increase (as opposed to a decrease). For example if the "default" is smaller than the maximum, then there will be a decrease instead of an increase, and the Examiner must explain why the "getting" is considered an increase. Also, the Examiner should explain why one of ordinary skill would be motivated to modify a system that simply verifies an available block size, to

increase the block size. As noted above, see MPEP 2144.03. If the Examiner is unable to find an appropriate reference to support his statements, then Claim 20 and its dependent claim 21 must be allowed to proceed to issuance.

Claims 22-23 were found to be obvious over the teachings of a single reference namely U.S. Patent 5,764,972 (granted to Crouse), in particular at column 26, lines 23-65 and items 442 and 466 in FIGs. 16c and 16d. In rejecting Claim 22, the Examiner stated (at the top of page 7) that the definition of buffer is a temporary data storage that is like cache between main data storage. However, Claim 22 has been amended to clarify that copying of the data is from the temporary buffer to another file on a storage medium used in archiving. Applicant respectfully traverses the Examiner's statements, and requests the Examiner to find a reference which discloses that the temporary data storage in Crouse's patent is used to transfer data to another file on a storage medium used in archiving. If the Examiner is unable to find an appropriate reference to support such a statement, then Claim 22 and its dependent claim 23 must be allowed to proceed to issuance.

Moreover, Applicant has carefully reviewed column 22, lines 8-45 which were cited by the Examiner for his statement that Crouse discloses checking if the file is a link to itself. In fact Applicant has found no suggestion whatsoever in Crouse to look for such links. Applicant respectfully traverses the Examiner's statements, and requests the Examiner to find a reference which discloses that Crouse's use of file archival attributes results in checking if a file points to itself. If the Examiner is unable to find an appropriate reference to support such a statement, then Claim 23 must be allowed to proceed to issuance.

In addition, Claims 24-28 were rejected for being obvious over the teachings of a single reference namely U.S. Patent 5,274,696 (granted to Perelman), in particular at column 2, lines 15-68, and FIG. 1. In rejecting Claim 24, the Examiner stated (at the bottom of page 7 and top of page 8) that simply from the disclosure of a mailbox in column 10, lines 30-65 a person of skill would be motivated to send out an email message if a resource at a destination is full. The Examiner's reasoning was that the email system provides effective electronic communication between computers for human users. However, Applicant submits that just the availability of an email function to humans does not motivate a skilled person to programmatically use the email function. Following the

Examiner's logic, no patent can ever be granted on any automated combination of two computer functions if each function is independently available to a human. Such logic is clearly overbroad and unsupported by the prior art.

Referring to the teachings of Perelman, a voice message is normally played to a human in an interactive manner via a voice apparatus, and the message that is played relates to, for example, the destination mail box is full or the mail box does not exist. There is no suggestion whatsoever that such a voice mail system is to be replaced by an email system or why the modified system is to be used during copying (to deliver an email error message instead of voice message). Moreover, Applicant has carefully reviewed column 2, lines 15-68 of Perelman and found no support whatsoever for "copying a file" as recited in Claim 24. At most this disclosure in column 2 by Perelman may indicate that a voice message is transferred from a sender's messaging system to a recipient's messaging system. But it will be apparent to a person of average skill in programming, that a voice message is quite different from a file (whose contents can be any data including but not limited to voice data), and that a transfer is different from copying (after copying there are two identical copies left, whereas after transferring the voice message exists only at the recipient and not at the sender). Claim 24 is therefore believed to be currently in form for allowance, in view of the prior art of record.

Claim 27 was rejected by the Examiner for the exact same reason as Claim 24, but the Examiner did not explain if and where Perelman discloses the differences between these two claims. Applicant submits that receiving an email message about an error in copying after starting a copying process is quite different from sending an email message during copying on encountering an error thereof. Applicant desires to obtain protection for both methods, and the Examiner must independently cite to a column and line number in Perelman which discloses each claim limitation individually.

If the Examiner continues to reject Claims 24-28 as being obvious over the teaching of the single reference by Perelman, Applicant respectfully traverses the Examiner's

unsupported statements at the top of page 8 of the Office Action. In particular, the Examiner is hereby requested to provide a reference which discloses or suggests to send out [an email] message if a resource at a destination is full. Also, the Examiner must prove that the email system provides effective electronic communication to between computers

[and] human users. The Examiner must also show why a skilled programmer would be motivated to send an error message by email instead of simply displaying the error message on a screen.

In view of the above remarks, Applicant submits that all pending claims are patentable.

Applicant brings to the attention of the Examiner, a number of references which are cited in an Information Disclosure Statement (IDS) being filed concurrently herewith. These references were cited in a PCT application based on the current application, in an International Search Report and a Written Opinion by the same Examiner. Applicant respectfully requests the Examiner to consider the remarks that were made in the Written Opinion and the Applicant's response (a copy of which is attached to the IDS).

Should there be any questions concerning this paper, please call the undersigned at (408) 982-8200, ext. 3.

Via Express Mail Label No. **ER158 144 496 US**

Respectfully submitted,

Omkar K. Suryadevara
Attorney for Applicant
Reg. No. 36,320